

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of: ISHIKAWA, Masahide, et al.
Serial No.: 10/500,867

Group Art Unit: 1714
Examiner: RONESI, Vickey M.

Filed: July 21, 2004

P.T.O. Confirmation No.: 8698

FOR: AN AGENT FOR SUPPRESSING TRANSFER OF ODOR AND TASTE
ORIGINATING FROM A DIACETAL, A DIACETAL COMPOSITION
COMPRISING THE AGENT FOR SUPPRESSING TRANSFER OF ODOR AND
TASTE, A POLYOLEFIN NUCLEATING AGENT COMPRISING



LETTER

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Date: August 9, 2005

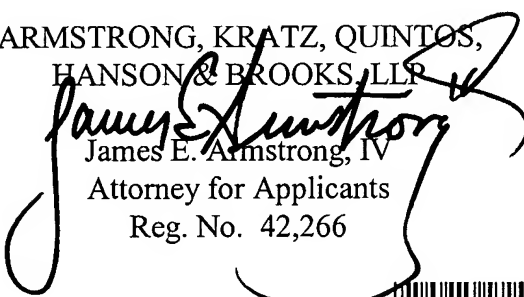
Sir:

The attention of the Patent and Trademark Office is hereby directed to the PCT Notification of Transmittal of copies of translation of the International Preliminary Examination Report attached herewith.

This Notification is submitted herewith to be placed in the U.S. Patent and Trademark Office file of this case.

Respectfully submitted,

ARMSTRONG, KRATZ, QUINTOS,
HANSON & BROOKS, LLP


James E. Armstrong, IV
Attorney for Applicants
Reg. No. 42,266

JAM/rk
Atty. Docket No. 040338
Suite 1000
1725 K Street, N.W.
Washington, D.C. 20006
(202) 659-2930



23850

PATENT TRADEMARK OFFICE

Enclosure: PCT Notification of Transmittal of copies of translation
of the International Preliminary Examination Report

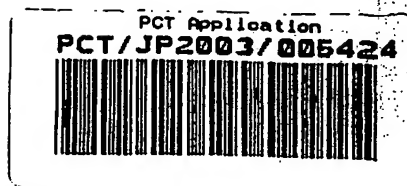
Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)



Applicant's or agent's file reference P03-32	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/JP2003/005424	International filing date (day/month/year) 28 April 2003 (28.04.2003)	Priority date (day/month/year) 02 May 2002 (02.05.2002)
International Patent Classification (IPC) or national classification and IPC C08K 5/1575, C08L 23/00		
Applicant NEW JAPAN CHEMICAL CO., LTD.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 4 sheets, including this cover sheet.
- ☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of _____ sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☒ Certain observations on the international application

Date of submission of the demand 04 August 2003 (04.08.2003)	Date of completion of this report 25 November 2003 (25.11.2003)
Name and mailing address of the IPEA/JP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/JP2003/005424

I. Basis of the report

1. With regard to the elements of the international application:*

- ☒ the international application as originally filed
- ☐ the description:
 pages _____, as originally filed
 pages _____, filed with the demand
 pages _____, filed with the letter of _____
- ☐ the claims:
 pages _____, as originally filed
 pages _____, as amended (together with any statement under Article 19
 pages _____, filed with the demand
 pages _____, filed with the letter of _____
- ☐ the drawings:
 pages _____, as originally filed
 pages _____, filed with the demand
 pages _____, filed with the letter of _____
- ☐ the sequence listing part of the description:
 pages _____, as originally filed
 pages _____, filed with the demand
 pages _____, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

- These elements were available or furnished to this Authority in the following language _____ which is:
- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/fig _____

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/JP03/05424

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	3-24	YES
	Claims	1, 2	NO
Inventive step (IS)	Claims	3-24	YES
	Claims	1, 2	NO
Industrial applicability (IA)	Claims	1-24	YES
	Claims		NO

2. Citations and explanations

The subject matters of claims 1 and 2 relate to "ingredient (B)" that is a compound per se selected from (B1) and (B2). Since the compounds corresponding to (B1) and (B2) are not considered to be novel compounds, the ingredient (B) described in claims 1 and 2 does not appear to be novel either.

The subject matters of claims 3-24 relate to (1) a method of using the "ingredient (B)" or the "ingredient (B)" and "ingredient (C)" as a migration inhibitor, or (2) a composition containing them as a migration inhibitor. However, such modes of using the ingredients (B) and (C) are neither described in any of the documents cited in the ISR, nor could have been easily conceived of by a person skilled in the art. Therefore, the subject matters of claims 3-24 appear to be novel and to involve an inventive step.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/JP03/05424

VIII. Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

Claims 1-24 describe ingredients (B) and (C) as independent compounds or as a mixture respectively constituting "a migration inhibitor." However, (1) the method for producing an odor and taste migration inhibitor for a diacetal, explained in the description, and (2) the confirmation of its performance are limited only to the case where the ingredients (B) and (C) form a composite with ingredient (A) (diacetal). Therefore, of the subject matters of claims 1-24, the case where the ingredients (B) and (C) are handled separately from the ingredient (A) (diacetal) {for example, a case where the ingredients (B) and (C) are brought into contact with the surface of a molded article containing the ingredient (A)} is not supported by the description.